

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUMMONS ISSUED

-----X
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY a/s/o YURY
CHERKASSKY,

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

Civil Action No.:

CV-12 2757

Plaintiff,

JUN 01 2012

Plaintiff Demands a

Trial by Jury

-against-

UNITED STATES POSTAL SERVICE
and ALTAGRACIA ALMONTE,

LONG ISLAND OFFICE COMPLAINT

**VITALIANO, J.
LEVY, M.**

Defendants.
-----X

Plaintiffs, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY a/s/o
YURY CHERKASSKY, by their attorneys, LAW OFFICES OF STUART D. MARKOWITZ,
P.C., as and for their Complaint, alleges the following upon information and belief:

PARTIES

1. That at all times hereinafter mentioned, plaintiff STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (hereinafter referred to as "STATE FARM"), is a foreign corporation, with a principal place of business in Illinois.
2. That at all times hereinafter mentioned, plaintiff STATE FARM, was and still is an insurance company duly authorized to transact the business of issuing automobile insurance policies in the State of New York.
3. That at all times hereinafter mentioned, STATE FARM'S Subrogor YURY CHERKASSKY (hereinafter referred to as "Subrogor"), was and still is a resident of the State of New York.
4. Upon information and belief, at all times hereinafter mentioned, defendant UNITED STATES POSTAL SERVICE (hereinafter referred to as "USPS") was and is a duly constituted department of the United States Government.
5. That upon information and belief, at all times hereinafter mentioned, defendant ALTAGRACIA ALMONTE (hereinafter referred to as "ALMONTE"), was and is a resident of

the State of New York.

JURISDICTION

6. Diversity jurisdiction of this Court is founded upon 28 U.S.C.1346(b) and 28 U.S.C. §2671-2680 as defendant USPS is being sued herein for actions committed by persons acting on behalf of the United States.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C.1391(a)(2), since a substantial number of the events or omissions giving rise to the claims herein occurred within this District or were committed here and the property that is the subject of the action is situated within this District.

FACTS

8. That upon information and belief, at all times hereinafter mentioned, defendant USPS was and is a duly constituted department of the United States Government.

9. That upon information and belief, at all times hereinafter mentioned, defendant USPS was the registered owner of a United States Postal Service vehicle, bearing license plate number 8214009.

10. That upon information and belief, at all times hereinafter mentioned, defendant ALMONTE was the driver/operator of the United States Postal Service vehicle, owned by and registered to defendant USPS.

11. Prior to October 11, 2011, in the course of plaintiff's business, plaintiff STATE FARM issued an automobile insurance policy to Subrogor, insuring Subrogor's vehicle, a 2010 Subaru, bearing New York license plate FEJ3361.

AS AND FOR A FIRST CAUSE OF ACTION

12. Plaintiff repeats, reiterates and realleges each and every allegation contained in the preceding paragraphs of this Verified Complaint numbered, "1" through "11" inclusive, with the same force and effect as though fully set forth herein at length.

13. That on or about October 11, 2011, the United States Postal Service vehicle bearing license plate number 8214009, which was being operated by defendant ALMONTE and which was owned by and registered to defendant USPS, struck the 2010 Subaru bearing license plate number FEJ 3361, which was owned by plaintiff's Subrogor.

14. That the motor vehicle owned by and registered to defendant USPS was at the time of the aforementioned automobile accident, being operated and driven by defendant ALMONTE, with the full knowledge, consent, permission, and authority of defendant USPS.

15. That defendant USPS knew or should have known that defendant ALMONTE would operate said motor vehicle in a reckless, careless, negligent, and dangerous manner.

16. That on or about October 11, 2011, defendant ALMONTE operated her vehicle in a careless, reckless and negligent manner in that she struck Subrogor's vehicle which was unoccupied and parked on Hunton Street, Staten Island, New York. A copy of the Police Report is attached hereto.

17. That the aforementioned incident on October 11, 2011, was caused solely by the carelessness, recklessness and negligence of defendants USPS and ALMONTE in the operation, use, and control of said automobile.

18. That the aforesaid damages were caused without any negligence on the part of Subrogor contributing thereto.

19. That plaintiff reserves the right to plead Res Ipsa Loquitur at the time of trial.

20. That solely as a result of the foregoing, plaintiff STATE FARM, pursuant to the provisions of its insurance policy, paid to Subrogor the sum of \$4,845.50, all resulting from the negligence of defendants USPS and ALMONTE.

21. That by virtue of said payments, and in accordance with the provision contained in its insurance policy, plaintiff STATE FARM, became subrogated to all the rights of Subrogor to recover against defendants USPS and ALMONTE, for any and all sums of money paid under said policy.

22. Prior to the institution of this action, this claim was presented to defendant USPS for its review pursuant to 28 U.S.C. §2675.

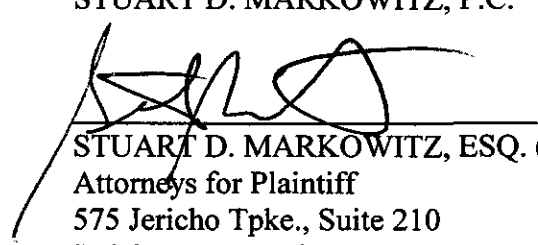
23. That as a result of the foregoing, plaintiff STATE FARM, has been damaged in the sum of \$4,845.50, no part of which has been paid, despite due demand therefor.

WHEREFORE, plaintiff STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY a/s/o YURY CHERKASSKY, demands judgment in its favor and against defendants, UNITED STATES POSTAL SERVICE and ALTAGRACIA ALMONTE, jointly and severally, in the amount of \$4,845.50, together with interest thereon from October 11, 2011, including the costs and disbursements of this action.

Dated: Jericho, New York
May 22, 2012

Yours etc.,

LAW OFFICES OF
STUART D. MARKOWITZ, P.C.



STUART D. MARKOWITZ, ESQ. (6817)
Attorneys for Plaintiff
575 Jericho Tpke., Suite 210
Jericho, New York 11753
(516) 935-3500
e-mail: smarkowitz@markowitz-law.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY a/s/o YURY
CHERKASSKY,

Civil Action No.:

Plaintiff,

-against-

**ATTORNEY
VERIFICATION**

UNITED STATES POSTAL SERVICE
and ALTAGRACIA ALMONTE,

Defendants.

-----X

STUART D. MARKOWITZ, ESQ., being an attorney duly admitted to practice before the Courts of the State of New York and fully aware of the penalties for perjury, hereby affirms as follows:

1. Affirmant is the attorney for Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY a/s/o YURY CHERKASSKY, in the within action.
2. Affirmant is fully familiar with the facts and circumstances involved in this matter from reviewing the file regarding the same maintained in our office.
3. Affirmant has read the foregoing Verified Complaint and knows the contents thereof and the same are true to affirmant's own knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.
4. That affirmant's belief as to those matters therein not stated upon knowledge are based upon the correspondence, reports, statements, records and communications had with the plaintiff with regards to this action and which information is contained in the file maintained in our office.
5. That the reason I make this affirmation instead of plaintiff's subrogor is because this is a subrogation action and plaintiff is a foreign corporation.
6. I affirm that the foregoing statements are true under the penalties of perjury.

Dated: Jericho, New York
May 22, 2012


STUART D. MARKOWITZ

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

Nov 07 2011 13:28:58 17186461515

-->

SF Fax Server 17 Ella Yelkin

Page 882

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

A Last Name		First	M.I.	D Last Name		First	M.I.
Address		Address					
Date of Birth		Telephone (Area Code)		Date of Birth		Telephone (Area Code)	
Month	Day	Year	()	Month	Day	Year	()
B Last Name		First	M.I.	E Last Name		First	M.I.
Address		Address					
Date of Birth		Telephone (Area Code)		Date of Birth		Telephone (Area Code)	
Month	Day	Year	()	Month	Day	Year	()
C Last Name		First	M.I.	Highway Dist. at Scene?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Address		Name:					
Date of Birth		Telephone (Area Code)				Shield No.	
Month	Day	Year	()				

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.Vehicle No. 1 SELF INSURED

Vehicle No. 2

Expiration Date

Expiration Date

VIN

VIN

WITNESS (Attach separate sheet, if necessary)

Name

Address

Phone

DUPLICATE COPY REQUIRED FOR:

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Dept. of Motor Vehicles
(if anyone is killed/injured) | <input type="checkbox"/> Motor Transport Division
(P.D. vehicle involved) | <input type="checkbox"/> NYC Taxi & Limousine Comm.
(if a licensed taxi or limousine involved) | <input type="checkbox"/> Other City Agency
(Specify) |
| <input type="checkbox"/> Office of Comptroller
(if a City vehicle involved) | <input type="checkbox"/> Personnel Safety Unit
(if a P.D. vehicle involved) | <input type="checkbox"/> Highway Unit | |

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)**PROPERTY DAMAGED** (other than vehicles)**OWNER OF PROPERTY** (include city agency, where applicable)**IF NYPD VEHICLE IS INVOLVED:**

Police Vehicle—Operator's First Name		Last Name		Rank	Shield No.	Tax ID No.	Command
Make of Vehicle	Year	Type of Vehicle	Plate No.	Dept. Vehicle No.	Assigned To What Command		
Equipment in Use At Time of Accident							
<input type="checkbox"/> Siren <input type="checkbox"/> Horn <input type="checkbox"/> Turret Light <input type="checkbox"/> 4-Way Flasher <input type="checkbox"/> High-Level Warning Lights <input type="checkbox"/> Traffic Cones <input type="checkbox"/> Headlights							

ACTIONS OF POLICE VEHICLE

- | | |
|--|---|
| <input type="checkbox"/> Responding to Code Signal | <input type="checkbox"/> Complying with Station House Directive |
| <input type="checkbox"/> Pursuing Violator | <input type="checkbox"/> Routine Patrol |
| <input type="checkbox"/> Other (Describe) | |